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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,011

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3702

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06/09/2009

EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,011	Applicant(s) WORGULL, KLAUS	
	Examiner Clark F. Dexter	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 20, 2009 has been entered.

Drawings

2. The drawings replacing Figure 13 were received on April 20, 2009. These drawings are acceptable.
3. The drawings received on January 2, 2009 stand as being objected to for the following reason:

The replacement drawing for Figure 11 is not acceptable since sufficient support for replacing 49 with 48. Rather, it seems that support is provided for leaving numeral 49, which indicates the dotted surface, in place and adding numeral 48 to indicate the carriage body (e.g., adding a lead line from numeral 48 that contacts the solid dark line indicating the outer surface of the carriage body).

4. The drawings are objected to because of the following informalities.

In Figures 1 and 2, it is not clear as to where the carriage 48 is located, and numeral 48 should be added for clarity; also, it seems that there should be structure (such as one of the legs 38, 39) present in the view shown in Figure 1.

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

The replacement paragraph for the paragraph beginning on page 6, line 21 of the present specification (found on page 3 of the amendment filed on January 2, 2009) is objected to for the following reasons:

In line 1, "on" should read --of--; in each of lines 4, 5 and 9, "means of" should be deleted for clarity; in line 6, "receptacles 40, 41" is inaccurate and should read --receptacles 44, 45--; in line 10, "sliding face" should be changed to read --sliding face 49, represented by the dotted features, --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 1st paragraph

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 112, first paragraph, as
- a. failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, and/or
 - b. as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a

way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is respectfully submitted that the specifics of the adjusting structure are not sufficiently clear, and thus it is not clear how the device operates to adjust the cutting structure; for example, it is not clear how the lever 33, the spring 37 and the surrounding structure operate to provide the disclosed adjusting operation.

Further, the original disclosure does not appear to provide support for a cutting blade being driven "without contact-pressure force" as now set forth in claim 12. That is, it is not clear how the cutting blade can be moved without contact-pressure force, particularly a lateral contact-pressure force at the point(s) where the blade 5 is connected to the drive structure.

Claim Rejections - 35 USC § 112, 2nd paragraph

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6, the recitation "configured to receive" renders the claim vague and indefinite as to whether the blade is received in the guide, and it is suggested to change "configured to receive" to --that receives-- or the like.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-4 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oster, pn 2,253,195.

Oster discloses a device with almost every structural limitation of the claimed invention including:

one lower and one upper shearing blade (e.g., 11, 11) solidly fixed to one another, and a cutting blade comprising cutting teeth and made from a flat material and configured to drive in oscillation, wherein:

the upper and lower shearing blades are solidly fixed to one another to form a guide configured to receive the cutting blade;

the cutting blade is configured to oscillate between the lower and upper shearing blades, and

the cutting head is provided with a hair length cut adjuster configured such that the lower and the upper shearing blades can be adjusted relative to the cutting blade;

[claim 4] wherein the cutting blade is provided with a parallel guide (e.g., e.g. 14);

[claim 8] wherein the hair cutting machine (which is an intended use and is not part of the claimed invention) is operated with a battery or with a rechargeable battery (16);

[claim 9] wherein the cutting head is in the form of a structural unit;

[claim 10] wherein the cutting head is lockable to the hair cutting machine;

[claim 11] wherein the cutting blade is configured to be driven to oscillate by a drive motor via a slaving device (e.g., the cutting blade has a substantially flat configuration and is thus considered to be configured as claimed);

[claim 12] wherein the cutting blade (5) is driven without contact-pressure force (e.g., this recitation, as best understood, is met in substantially the same manner as for the present invention).

However, the Examiner takes Official notice that hair cutting length adjusters of various sorts are old and well known in the art and provide various well known benefits including facilitating various types of shaving to provide for a desired shaving experience and/or to achieve a desired appearance. Further, such adjustment mechanisms provide other well known benefits including facilitating blade positioning/alignment to provide the desired cutting action and cutting relationship between the blades. Such adjustments are often made to accommodate replacement and/or worn blades. Therefore, it would have been obvious to one having ordinary skill in the art to provide a such a cutting length adjuster or more generally stated, a blade adjustment mechanism on the device of Oster to gain the well known benefits including those described above.

Further, Oster discloses a device with almost every structural limitation of the claimed invention but lacks:

an explicit disclosure of hard sheet metal as set forth in claim 2;

an explicit disclosure of the blade thickness as set forth in claim 3;
a lubricant reservoir as set forth in claim 7.

Regarding claim 2, the Examiner takes Official notice it is old and well known in the art to make shaving components from hard metal sheet to gain the well known benefits including sturdiness and durability. Therefore, it would have been obvious to one having ordinary skill in the art to make components of the device of Oster from hard metal sheet to gain the well known benefits including those described above.

Regarding claim 3, it is noted that there are no relative dimensions given, and to make the device of Oster any size (i.e., to any scale) is well within the skill level of one having ordinary skill in the art.

Regarding claim 7, the Examiner takes Official notice that lubricant reservoirs in shaving devices are old and well known in the art and provide various well known benefits including treating the skin during shaving for various reasons including to enhance shaving comfort. Bott, pn 2,194,465 discloses just one example of a lubricant reservoir on a shaving device. Therefore, it would have been obvious to one having ordinary skill in the art to provide a lubricant reservoir on the device of Oster to gain the well known benefits including those described above.

Response to Arguments

13. Applicant's arguments filed April 20, 2009 have been fully considered but they are not persuasive.

Regarding the drawing objection to Figure 11, the Examiner agrees that the carriage indicated by numeral 48 is shown but disagrees that it is the same structure as indicated by numeral 49. Based on the original disclosure, numeral 49 appears to be intended to indicate the dotted structure which is a sliding surface of the carriage. Therefore, it seems that numeral 49 should remain as originally disclosed, and numeral 48 should be added as described in the drawing objections above.

In the paragraph bridging pages 6-7 of the subject response, applicant presents the following:

"Applicant argues that Oster does not teach or suggest a cutting head in which the stationary shearing blades are solidly fixed to one another to form a guide configured to receive the cutting blade (5). Rather, Oster teaches a cutting head in which the shearing blades and cutting blade are assembled and then held together using pressure from a clamp spring. This configuration is distinct from that recited in present claim 1 because it requires the blades to be held together by tension, which resists the oscillatory motion of the cutting blade."

The Examiner respectfully disagrees with applicant's analysis. It is respectfully submitted that Oster's structure is clearly solid (i.e., it meets at least one definition of the term), at least solid enough to perform the disclosed operation. Further, it is respectfully submitted that simply because components are assembled and/or clamped together, it does not mean that the resultant device/assembly is not solid. In other words, the term "solid" is an extremely broad term that is met by the prior art.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-

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4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
June 8, 2009